

## 46 Am. Jur. 2d Judges § 36

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### Judges

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### V. Powers and Duties

#### C. Reconsidering Rulings by Another Judge

## § 36. Reconsideration of predecessor judge's ruling, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  24, 32

### A.L.R. Library

[Power of successor judge taking office during term time to vacate, set aside, or annul judgment entered by his or her predecessor, 51 A.L.R.5th 747](#)

Some jurisdictions follow the view that a judge does not have the power to vacate, modify, or depart from an interlocutory order or ruling made in the same case by another judge with equal powers,<sup>1</sup> unless new circumstances justify a fresh examination.<sup>2</sup> Other jurisdictions, however, recognize that a trial judge does have this power, regardless of the circumstances.<sup>3</sup> When an issue is once judicially determined, that should be the end of the matter as far as successive judges sitting in the same case are concerned; however, this rule is not an imperative, does not go to the power of the court and it does not necessarily mandate that a court does not have discretion, in appropriate circumstances, to reconsider a ruling made by another judge in the same case.<sup>4</sup>

Although a trial judge who succeeds a prior trial judge in a case while the case is still in the trial court may generally reconsider a decision made by the prior judge without violating the law of the case doctrine, that freedom is not available where the prior judge's decision has been affirmed on appeal.<sup>5</sup>

A judge acting later in a case is, at most, bound only by the actual order or ruling announced by an earlier judge and not by the doctrine announced by the earlier judge in connection with the order or ruling.<sup>6</sup>

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Footnotes

- 1 [Jones v. Rivera](#), 2005 PA Super 17, 866 A.2d 1148 (2005).
- 2 [Herczeg v. Hampton Tp. Mun. Authority](#), 2001 PA Super 10, 766 A.2d 866 (2001).  
As to the effect of a change of circumstances on a judge's power to reconsider another judge's ruling, generally, see § 38.
- 3 [Riley v. Presnell](#), 409 Mass. 239, 565 N.E.2d 780 (1991).  
The power of one judge to vacate an order made by another judge is limited. [Alvarez v. Superior Court](#), 183 Cal. App. 4th 969, 107 Cal. Rptr. 3d 671 (1st Dist. 2010).  
One circuit court judge may not overrule another. [Salmonsens v. CGD, Inc.](#), 377 S.C. 442, 661 S.E.2d 81 (2008).
- 4 [Teamsters Union Local No. 2, International Brotherhood of Teamsters, Plaintiff, Appellee, and Cross-Appellant v. C.N.H. Acquisitions, Inc.](#), 2009 MT 92, 350 Mont. 18, 204 P.3d 733 (2009).
- 5 [Barber v. State, Department of Corrections](#), 393 P.3d 412 (Alaska 2017).
- 6 [Happ v. Lockett](#), 543 So. 2d 1281 (Fla. 5th DCA 1989).

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